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Planning in Northern Ontario

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1. Official Plans and Amendments
2. Plans of Subdivision
3. Consents
4. Zoning and Minor Variances
5. Transition to the New Planning System
6. Planning in Northern Ontario.

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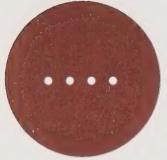
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Table of Contents

	Introduction.....	1
Part 1	The North, What Makes it Different	3
	PLANNING IN THE NORTH	3
Part 2	New Planning in the North.....	5
	A. MUNICIPAL PLANNING	5
	B. PLANNING BOARDS	5
	C. MINISTER'S DECISIONS	6
	D. NOTICE AND PUBLIC MEETING REQUIREMENTS	6
	E. SUBSURFACE MINING RIGHTS	7
Part 3	Policies that Guide Development in the North.....	8
	A. NATURAL HERITAGE ENVIRONMENTAL PROTECTION AND HAZARD POLICIES	8
	B. ECONOMIC, COMMUNITY DEVELOPMENT AND INFRASTRUCTURE POLICIES	8
	C. HOUSING POLICIES	9
	D. AGRICULTURAL LAND POLICIES	9
	E. MINERAL AGGREGATES, MINERAL AND PETROLEUM RESOURCES POLICIES	9



Introduction

This bulletin is one of a series intended to explain Ontario's planning system as revised in 1995. This bulletin focuses on planning in northern Ontario.

In 1995 the Ontario government amended the Planning Act R.S.O. 1990 and fundamentally changed the way planning is done in Ontario. These revisions made planning in Ontario more efficient, more accountable and more protective of the environment. The amendments clarified the responsibilities of the different levels of government and provided the basis for consistent decisions.

Under the revised system the role for the province is increasingly to set a policy framework, such as through the Comprehensive Set of Policy Statements, while that of the municipality or planning board is to make local decisions that are consistent with them. The system encourages early consultation, completeness of information and timely decisions.

Another aim of the revised Planning Act is to empower local governments to make decisions. By giving more authority to counties, regions, cities, municipal planning authorities and planning boards to make decisions, there is more emphasis on local accountability and responsibility.

This bulletin is intended to highlight the changes that affect planning in northern Ontario under Ontario's new planning system. It does not attempt to explain the planning system in detail.

Other bulletins specifically address process and transition issues.

This bulletin strives to use plain language and is intended as a guide only. For precise legal references, the reader should consult the statutes and the regulations.



The distinctive geography of northern Ontario determines how it is governed and planned. The north consists of territorial districts which represent geographic boundaries. Within these geographic districts there is a range of municipal governments including a region, cities, towns, villages and townships. Large portions of the districts have no municipal organization and are referred to as unincorporated territory (these areas are also commonly referred to as territory without municipal organization or unorganized areas). A large majority of unincorporated territory remains Crown Land. Portions of unincorporated territory have services provided by local roads boards, local services boards and planning boards. However, most of it lacks local planning controls and local services.

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PLANNING IN THE NORTH

Planning reflects the geography of the north. Cities and towns in the north, and the areas that surround them, share many planning issues with similar centres in the south. The unincorporated territory, however, presents a distinct set of planning concerns. There is, at times, pressure for development where no municipalities exist to provide services. While planning boards and local roads and services boards are empowered to provide some limited services, their establishment or expansion might not always be possible or

appropriate and they do not provide a full range of municipal services or elected municipal government. It should also be noted that these boards receive a substantial portion of their funding from the Province.

Development in unincorporated territory can have serious environmental and financial implications. Historically, company resource towns and other forms of permanent development in the north have been built on communal services in unincorporated territory. Often when the company or the custodian of the services closes or leaves, the province must assume responsibility, or the services become derelict.

Regions like Sudbury and cities like Thunder Bay, North Bay, Sault St. Marie and Timmins have modern and sophisticated planning, with official plans and zoning and the authority to decide on subdivisions and consents within their own jurisdictions. Most other municipalities (towns and townships) also have official plans and zoning bylaws and may have the authority to give consents.

Planning boards have been established in certain areas of northern Ontario. Planning board areas may consist of two or more municipalities, one or more municipalities and unincorporated territory, or just unincorporated territory. Planning board areas tend to have similarities

Planning in Northern Ontario

of geography or community and historically have been located where the level of development activity requires planning controls. All planning board areas are covered by official plans and most are covered by Minister's zoning orders and have consent granting authority.

Over the years, development has occurred in some unincorporated areas close to municipalities, without the benefit of official plans to guide development. Residents of these areas are part of the community of interest associated with the municipality and place demands on certain municipal services, but in most cases do not help to pay for them. This raises questions of equity and fairness to those bearing the cost of the services with the result that the province discourages development in these areas except in limited circumstances (see Part 3, section B).

Although the Planning Act allows the creation of district land division committees, only one currently exists, in Parry Sound District, and its responsibility is to grant consents. No other planning functions occur at the district level.

Outside of municipalities, planning board areas and territory covered by the Parry Sound District Land Division Committee, northern Ontario's unincorporated territory has no local planning control. Planning decisions here remain in the

hands of the Minister of Municipal Affairs. It should also be noted that there are large areas of Crown land both within municipalities and in unincorporated territory for which the Ministry of Natural Resources is responsible. The Ministry of Natural Resources has a resource management planning system in place for these lands.

Ontario's new planning system is intended to provide planning that is efficient, locally accountable and policy-led, a philosophy that extends to the north as well. It affects planning by municipalities, by planning boards and by all provincial Ministries, including the Ministry of Municipal Affairs.

A. MUNICIPAL PLANNING

Certain municipalities in the north are now required by the Planning Act to prepare official plans. They include the Region of Sudbury and all the cities in the north outside of the Region. All other municipalities continue to be encouraged to have official plans.

The revised Planning Act assigns the authority to approve plans of subdivision to the Region of Sudbury and northern cities outside of the Region. Most had this authority under the old system through ministerial delegation orders. The revised Planning Act assigns the authority directly, superseding the former delegation orders. The Region of Sudbury and northern cities outside of the Region were previously assigned consent granting authority; they retain this authority. Other municipalities may continue to be delegated the Minister's subdivision and consent granting authority.

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B. PLANNING BOARDS

Key changes to planning in the north are the new powers given to planning boards to pass zoning bylaws which cover their unincorporated territory and the ability to enter into subdivision agreements. In addition, planning boards are now being encouraged to expand their planning areas.

Under the new system, the planning boards may either request the Minister to deem an existing Minister's Zoning Order to be a zoning bylaw of their own, or they may prepare and pass their own bylaw. The Minister will consider whether a zoning order that covers the same area as a planning board zoning bylaw should be revoked. (Municipalities within planning boards already have the power to zone for their jurisdiction.)

Before the Minister deems a Minister's Zoning Order to be a planning board zoning bylaw the planning board should demonstrate that it will:

- assume full responsibility for administration, legal liability, and enforcing the bylaw;
- update its official plan so that it is consistent with the province's Comprehensive Set of Policy Statements;
- incorporate current provincial policies into the bylaw;

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Planning in Northern Ontario

- ensure the bylaws are clear and enforceable; and
- assume responsibility for obtaining planning expertise.

The new planning system has also given planning boards the authority to enter into a subdivision agreement with an applicant and to register the agreement against the land.

As with municipalities, planning board official plans may need to be updated to be consistent with the Comprehensive Set of Policy Statements which came into effect upon proclamation of the revised Planning Act.

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C. MINISTER'S DECISIONS

In unincorporated territory outside the jurisdiction of planning boards and the district land division committee, the Minister of Municipal Affairs remains the approval authority for all planning applications under the Planning Act. Under the new planning system the Minister must, in accordance with regulations, notify the public of consent and subdivision applications which he or she has received and make decisions that are consistent with the Comprehensive Set of Policy Statements.

Also new are grounds for the Minister to refuse a request to refer a zoning order amendment

application to the OMB. Such a request may be refused if the Minister is of the opinion that:

- it does not disclose any apparent land use planning ground upon which the Board could decide on the application;
- that the request is not made in good faith or is frivolous or vexatious or for delay;
- is premature because the necessary public water, sewer or road services are not available and will not be available within a reasonable time; or
- the requester did not provide written reasons for the request.

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D. NOTICE AND PUBLIC MEETING REQUIREMENTS

New provisions in the revised Planning Act expand the notification and public meeting requirements for all approval authorities including the Minister of Municipal Affairs, municipalities and planning boards.

Of particular interest to the north are the new notice requirements in the regulations for official plans and amendments, zoning, subdivisions and consents, with respect to the giving of notice to First Nations on reserves. If the application applies to lands within one kilometre of a reserve, notice must be given to the Chief of the First

Planning in Northern Ontario

Nation council. However, municipalities or planning boards may enter into agreements with First Nations to vary or waive these notice requirements. (The reader should check the Act, the regulations and the process bulletins for the details.)

Another unique feature of planning in the north relates to public meetings. While public meetings are generally required for all plans of subdivisions, they are not required in cases where the plan of subdivision is in unincorporated territory not within a planning board area.

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E. SUBSURFACE MINING RIGHTS

The subdivision control provisions of the Planning Act no longer apply and are deemed to have never applied to the severance of subsurface mining rights. This was previously a point of confusion with significant implications for the mining industry.

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As with southern Ontario, the role of the province is to issue policies such as those contained in the Comprehensive Set of Policy Statements (CSPS). Most decisions and comments on matters under the Planning Act commenced after proclamation of the amendments to the Planning Act must be consistent with these policy statements. (refer to G2 of the CSPS for exceptions). While the CSPS apply to all of Ontario, the discussion below focuses on certain implications for the north:

A. NATURAL HERITAGE ENVIRONMENTAL PROTECTION AND HAZARD POLICIES

Briefly, the goals of these policies are to protect ecosystems, to identify and protect wetlands and to prevent development from occurring where it may be dangerous to public health or safety or damage property. In doing so, the policies recognize circumstances that are unique to northern Ontario.

The policies regarding the north's Boreal Region permit development in provincially significant wetlands if it does not jeopardize the wetland function. In the Great Lakes-St. Lawrence Region, which includes part of northern Ontario, development in provincially significant wetlands is not permitted at all. These policies are based on a wetlands evaluation system that further recognizes the differences of the Boreal Region. It recognizes the abundance of wetlands on the Boreal Region in northern Ontario, and the

relative lack of them in Great Lakes-St. Lawrence Region, and evaluates the significance of these wetlands in different ways.

Similarly, development policies for significant woodlands only apply in the areas south and east of the Canadian Shield.

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B. ECONOMIC, COMMUNITY DEVELOPMENT AND INFRASTRUCTURE POLICIES

The CSPS contain special policies for unincorporated territory. Generally, development (defined as new lots and/or an increase in the number of permitted units on a lot) is restricted in unincorporated territory except:

- where no opportunity for residential development exists in nearby municipalities, or
- it is directly related to a resource, (new resource towns are not permitted however), or
- it meets specific aboriginal needs, or
- it is within or abuts a recognized built up area in an unorganized area, and
- the site is suitable for individual on site water and sewer systems.

The CSPS contain policies which state that communities should be planned and developed to provide opportunities for a diversified economic

Planning in Northern Ontario

base. This is particularly relevant for northern resource-based communities.

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C. HOUSING POLICIES

The housing policies in the CSPS require larger municipalities throughout Ontario to provide a full range of housing types. However, recognizing that there are differences in northern and rural Ontario, the housing policies allow municipalities under 10,000 population (except in the Region of Sudbury) and planning boards with less populated areas (i.e. excluding those with cities or towns within planning areas that exceed 10,000 population) to adopt and justify alternate approaches to providing that range of housing.

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D. AGRICULTURAL LAND POLICIES

The goal of the agricultural land policies is to protect prime farm areas throughout Ontario (those areas with Class 1 to 3 or speciality crop land). Although northern Ontario is perceived by some as lacking good farm land, farming occurs in many locales across the north. Here, as in southern Ontario, planning decisions must be consistent with the agricultural land policies.

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E. MINERAL AGGREGATES, MINERAL AND PETROLEUM RESOURCES POLICIES

Municipalities and planning boards throughout Ontario must make planning decisions that are consistent with protecting mineral aggregates, and mineral and petroleum resources and operations. While some resources are more common in the north (e.g. precious metals), others are peculiar to the south (limestone, petroleum). Decision makers should also be aware that the policies prohibit development around areas of past mining activities unless those areas have been made safe, and only if development does not alter or impede rehabilitation.

Many of the policies in the CSPS existed as policies or guidelines prior to proclamation and are not likely new to participants in the planning process. Where they have practised good planning principles their decisions will already have been consistent with these policies. The CSPS apply to all of Ontario. This bulletin highlights their relevance to the north. Readers must therefore consider Part Three of this bulletin in conjunction with the entire text of the CSPS itself.



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